

Ordinance No: 15-11
Zoning Text Amendment No: 03-15
Concerning: Benefit performance
Draft No. & Date: 1 – 6/5/03
Introduced: June 10, 2003
Public Hearing: July 15, 2003; 1:30 PM
Adopted: July 29, 2003
Effective: July 29, 2003

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

By: Councilmember Silverman

AN AMENDMENT to the Montgomery County Zoning Ordinance for the purpose of:

- clarifying that a benefit performance may take place on property regulated by special exception, without modification of the special exception,
- ~~[[exempting certain property from certain land use restrictions that apply to a benefit]]~~ clarifying how the distance requirement is to be measured, and
- making plain language changes, throughout.

By amending the following section of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

DIVISION 59-A-6	“USES PERMITTED IN MORE THAN ONE CLASS OF ZONE”
Section 59-A-6.5	“Benefit performance”

EXPLANATION: ***Boldface** indicates a heading or a defined term.*
Underlining indicates text that is added to existing laws by the original text amendment.
[Single boldface brackets] indicate text that is deleted from existing law by the original text amendment.
Double underlining indicates text that is added to the text amendment by amendment.
~~[[Double boldface brackets]]~~ indicate text that is deleted from the text amendment by amendment.
** * * indicates existing law unaffected by the text amendment.*

OPINION

Zoning Text Amendment No. 03-15 was introduced on June 10, 2003 to clarify that a benefit performance as defined under Section 30-34 of the County Code, may take place on property regulated by special exception, without modification of the special exception. The ZTA would also exempt County-owned property, including any adjacent property regulated by special exception from certain land use requirements applicable to a benefit performance.

The Montgomery County Planning Board in its report to the Council recommended that the text amendment be approved with revisions. The Planning Board supports the provision of the ZTA that would clarify that a benefit performance may take place on property regulated by special exception, without modification of the special exception. The Board does not support the provision that would exempt County-owned property, including any adjacent or confronting property regulated by special exception from the restrictions that apply to all other property where a benefit performance may take place.

The County Council held a public hearing on July 15, 2003 to receive testimony concerning the proposed text amendment. The text amendment was referred to the Planning, Housing, and Economic Development Committee for review and recommendation.

The Planning, Housing, and Economic Development Committee held a worksession on July 23, 2003 to review the amendment. The Committee was generally opposed to the proposed exemption of County-owned property and adjacent special exception property from the restriction prohibiting a benefit performance within 600 feet of any dwelling and from occurring for more than 15 days. The Committee agreed that the most reasonable approach would be to delete the exemption provision and clarify that the 600-foot measurement is from the perimeter of the performance area to the nearest residential dwelling. The Committee clarified that the perimeter of the performance area should be delineated by applicant in the license application and includes any primary seating that may be provided.

The District Council reviewed Zoning Text Amendment No. 03-15 at a worksession held on July 29, 2003 and agreed with the recommendations of the Planning, Housing, and Economic Development Committee.

For these reasons and because to approve this amendment will assist in the coordinated, comprehensive, adjusted and systematic development of the Maryland-Washington Regional District located in Montgomery County, Zoning Text Amendment No. 03-15 will be approved as revised.

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:

1 **Sec. 1. Article 59-A-6 is amended as follows:**

2 **DIVISION 59-A-6. USES PERMITTED IN MORE THAN ONE CLASS OF**
3 **ZONE.**

4 * * *

5 **59-A-6.5. Benefit performance.**

6 (a) A [B] benefit performance[s] permitted under [s] Section 30-4 may be
7 conducted in any zone, including on property regulated by special exception
8 without requiring a modification of the special exception.[: provided, that:]

9 [(a)](b) [No such] A benefit performance [may be] must not be:

10 (1) conducted in any residential, [or] C-O, or C-1 zone for a period
11 exceeding 15 days for any one performance, or [nor be]

12 (2) located within 600 feet of any dwelling, measured from
13 the perimeter of the performance area, as delineated in the license
14 application, to the nearest dwelling, unless at least 75 percent of
15 the occupants of [any such] the dwellings within 600 feet [of such
16 site] consent to [such] the performance in writing.

17 [(b)] (c) The [provisions] restrictions of subsection [(a)] (b) [above shall not]
18 do not apply to a benefit performance conducted [upon] on[[:]]

19 [(1)] property which is occupied by a private club operating in compliance
20 with this Chapter, a church, a fire department, a public school, or a
21 nationally chartered service or veterans organization, not organized
22 for gain or profit of any individual member of such groups[[: or

23 (2) County-owned property, including any adjacent or confronting
24 property which is regulated by special exception]].

Sec. 2. Effective date. This ordinance becomes effective immediately upon Council adoption.

This is a correct copy of Council action.

Mary A. Edgar, CMC

Clerk of the Council